

## THE MICHIGAN PENAL CODE (EXCERPT)

### Act 328 of 1931

#### CHAPTER X

#### ARSON AND BURNING

##### **750.71 Arson and burning; definitions.**

Sec. 71. Definition of “burn”—The term “burn” as used in this chapter shall mean setting fire to, or doing any act which results in the starting of a fire, or aiding, counseling, inducing, persuading or procuring another to do such act or acts.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.71.

**Former law:** See section 1 of Act 38 of 1927, being CL 1929, § 16933.

##### **750.72 Burning dwelling house.**

Sec. 72. Burning dwelling house—Any person who wilfully or maliciously burns any dwelling house, either occupied or unoccupied, or the contents thereof, whether owned by himself or another, or any building within the curtilage of such dwelling house, or the contents thereof, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 20 years.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 260, Eff. Sept. 6, 1945;—CL 1948, 750.72.

**Former law:** See section 2 of Act 38 of 1927, being CL 1929, § 16934; and Act 272 of 1929.

##### **750.73 Burning of other real property.**

Sec. 73. Burning of other real property—Any person who wilfully or maliciously burns any building or other real property, or the contents thereof, other than those specified in the next preceding section of this chapter, the property of himself or another, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 10 years.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 260, Eff. Sept. 6, 1945;—CL 1948, 750.73.

**Former law:** See section 3 of Act 38 of 1927, being CL 1929, § 16935; and Act 272 of 1929.

##### **750.74 Burning of personal property.**

Sec. 74. (1) A person who willfully and maliciously burns any personal property, other than personal property specified in section 72 or 73, owned by himself or herself or another person is guilty of a crime as follows:

(a) If the value of the personal property burned or intended to be burned is less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the personal property burned or intended to be burned, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the personal property burned or intended to be burned, whichever is greater, or both imprisonment and a fine:

(i) The value of the personal property burned or intended to be burned is \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the personal property burned or intended to be burned, whichever is greater, or both imprisonment and a fine:

(i) The value of the personal property burned or intended to be burned is \$1,000.00 or more but less than \$20,000.00.

(ii) The person violates subdivision (b)(i) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the personal property burned or intended to be burned, whichever is greater, or both imprisonment and a fine:

(i) The personal property burned or intended to be burned has a value of \$20,000.00 or more.

(ii) The person violates subdivision (c)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does

not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(2) The values of personal property burned or intended to be burned in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of personal property burned or intended to be burned.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 260, Eff. Sept. 6, 1945;—CL 1948, 750.74;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

**Former law:** See section 4 of Act 38 of 1927, being CL 1929, § 16936; and Act 272 of 1929.

### **750.75 Burning of insured property.**

Sec. 75. Burning of insured property—Any person who shall wilfully burn any building or personal property which shall be at the time insured against loss or damage by fire with intent to injure and defraud the insurer, whether such person be the owner of the property or not, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.75.

**Former law:** See section 5 of Act 38 of 1927, being CL 1929, § 16937.

### **750.76 Applicability of preceding sections.**

Sec. 76. Applicability of preceding sections—The preceding sections of this chapter shall apply to a married woman who may commit any of the offenses herein described although the property burnt may belong partly or wholly to her husband; and said preceding sections shall also apply to a married man although the property burnt may belong partly or wholly to his wife; and although said property may be occupied by such married man or married woman, or by such married man and wife as a residence.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.76.

**Former law:** See section 6 of Act 38 of 1927, being CL 1929, § 16939.

### **750.77 Willfully and maliciously setting fire.**

Sec. 77. (1) A person who uses, arranges, places, devises, or distributes an inflammable, combustible, or explosive material, liquid, or substance or any device in or near a building or property described in section 72, 73, 74, or 75 with intent to willfully and maliciously set fire to or burn the building or property or who aids, counsels, induces, persuades, or procures another to do so is guilty of a crime as follows:

(a) If the property intended to be burned is personal or real property, or both, with a combined value less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the combined value of the property intended to be burned, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the combined value of the property intended to be burned, whichever is greater, or both imprisonment and a fine:

(i) The property intended to be burned is personal or real property, or both, with a combined value of \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the combined value of the property intended to be burned, whichever is greater, or both imprisonment and a fine:

(i) The property intended to be burned is personal or real property, or both, with a combined value of

\$1,000.00 or more but less than \$20,000.00.

(ii) The person violates subdivision (b)(i) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the combined value of the property intended to be burned, whichever is greater, or both imprisonment and a fine:

(i) The property is personal or real property, or both, with a combined value of \$20,000.00 or more.

(ii) The person violates subdivision (c)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for committing or attempting to commit an offense for a violation or attempted violation of subdivision (a) or (b)(ii).

(2) The combined value of property intended to be burned in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property intended to be burned.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) The total value of property intended to be burned.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 260, Eff. Sept. 6, 1945;—CL 1948, 750.77;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

#### **750.78 Wilfully or negligently setting fire to woods, prairies or grounds.**

Sec. 78. Wilfully setting fire to woods, etc.—Any person who shall wilfully or negligently set fire to any woods, prairies or grounds, not his property, or shall wilfully permit any fire to pass from his own woods, prairies or grounds, to the injury or destruction of the property of any other person, shall be guilty of a felony.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.78.

**Former law:** See section 1 of Ch. 45 of R.S. 1846, being CL 1857, § 5924; CL 1871, § 7790; How., § 9402; CL 1897, § 11653; CL 1915, § 15424; and CL 1929, § 16942.

#### **750.79 Clearing of land and disposing of refuse in townships.**

Sec. 79. Clearing land by fire and disposing of refuse materials in townships—Whenever in pursuance of the authority given by law, any township board shall, by order, rule or regulation, designate a period during which it shall be unlawful to set forest fires or fires for the purpose of clearing lands, and disposing by burning of refuse material and waste matter within its respective jurisdiction or any part thereof, any person who shall be found guilty of violating the orders, rules and regulations of such board by setting any such fire in such township contrary to the provisions thereof shall be guilty of a felony: Provided, That any person desiring to dispose of refuse material by burning the same during the time prohibited by the board of such township, may do so after first procuring permission in writing, signed by the supervisor and township clerk, or by a majority of such township board, and the said supervisor and township clerk, or a majority of the said board are hereby authorized to grant such permission in their discretion, under such conditions as they may prescribe, upon application made in writing for such purpose: Provided further, That said board is hereby authorized at any time to repeal by resolution any order, rule or regulation herein mentioned.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.79.

**Former law:** See section 5 of Ch. 45 of R.S. 1846, being CL 1897, § 11657; CL 1915, § 15428; CL 1929, § 16946; and Act 189 of 1897.

#### **750.80 Setting fire to mines and mining material.**

Sec. 80. Setting fire to mines and mining materials—Any person who shall wilfully and maliciously burn

or set fire to or cause to be burned or set fire to any wood, timber, or other material in any part of a mine under ground, or shall wilfully and maliciously set fire to or burn any shaft house or other structure or materials built or placed over, or upon a shaft, adit, level or other opening into any mine, such mine being then in use or operation, shall be guilty of felony, and be punishable by imprisonment in the state prison for life or for any term of years.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.80.

**Former law:** See section 1 of Act 4 of 1889, being How., § 9209c; CL 1897, § 11652; CL 1915, § 15423; and CL 1929, § 16941.